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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 CARRIE FERRARA CLARK,

12 Plaintiff,

13 vs.

14 CITY OF TUCSON,

15 Defendant.

Case No. 4:14-CV-02543-TUC-CKJ

**PLAINTIFF'S RESPONSE TO
DEFENDANT'S MOTIONS *IN LIMINE*
6 AND 7**

Hon. Cindy K. Jorgenson

16 Plaintiff Carrie Ferrara Clark responds and objects to Defendant's *Motions in Limine*
17 6 and 7 (Doc. 149). For the reasons discussed below, Defendant's *Motions in Limine* 6 and
18 7 should be denied.

19 **VI. Plaintiff's Testimony Regarding Retaliation Against Captain Gordon Clark**

20 While Plaintiff's husband, Captain Gordon Clark, is not a party in this case,
21 retaliation against him would be retaliation against Plaintiff Clark, his wife. *Thompson v.*
22 *North American Stainless, LP*, 562 U.S. 170 (2011). Nevertheless, after briefing and
23 evaluation, the Court dismissed Count 4 of Plaintiff's Third Amended Complaint alleging
24 Title VII retaliation involving Captain Clark. Further, before filing its motions *in limine*,
25 counsel conferred pursuant to L.R.Civ. 7.2(1). During the meet-and-confer period, on or
26 about December 4, 2018, Defendant indicated that it intended to seek to preclude testimony
regarding retaliation against Captain Clark. Specifically, Defendant wrote:

Preclude inference, argument, or testimony that TFD did anything improper
when it transferred Gordon out of Prevention or when TFD failed him on

1 probation as a Battalion Chief. The Court dismissed these claims in its Order
2 Doc. 131.

3 On January 2, 2019, Plaintiff agreed with Defendant's in limine motion regarding
4 Captain Clark. To that end, on January 7, 2019, the parties executed and filed a stipulation
5 that included counsel's agreement as to Captain Clark. Doc 153, p. 2 ¶ 5. Therefore,
6 Defendant's Motion *in Limine* number six should be disregarded as moot and unnecessarily
7 filed.

7 **VII. Plaintiff's Testimony Regarding Captain Langejans**

8 As to Defendant's *in limine* objections to Captain Langejans' testimony, Plaintiff
9 concurs that she cannot and will not allege that Captain Langejans created a hostile work
10 environment. Plaintiff intends on following the Court's Order (Doc 131), regarding
11 evidence and argument involving Captain Langejans. For example, the Court did not
12 dismiss or preclude Plaintiff's claim that Defendant retaliated against her when it ordered
13 an education counseling for inappropriate conduct because it occurred close in time to a
14 complaint she made against Captain Langejans. Doc 131 at p. 24. Therefore, Plaintiff
15 intends on testifying to matters which are consistent with the Court's Order.

15 **VIII. Conclusion**

16 For the reasons discussed above, Defendant's motion *in limine* number six should be
17 denied as moot. The court should also deny, as moot, Defendant's motion in limine number
18 seven and instruct the parties to follow its Order adjudicating the cross-summary judgment
19 motions in this case.

20
21 DATED this 22nd day of January, 2019.

22 **JACOBSON LAW FIRM**

23
24 s/Jeffrey H. Jacobson
25 Jeffrey H. Jacobson
26 Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2019, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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